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# HOUSE BILL No. 1353

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-2-4-8; IC 36-4-6-14; IC 36-5-2-10; IC 36-7-4-1311.

**Synopsis:** Effective date of fees. Delays the effective date of building permit and impact fees for new development until 90 days after the date of adoption.

**Effective:** July 1, 2003.

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January 14, 2003, read first time and referred to Committee on Local Government.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1353

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-2-4-8 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) An ordinance, order, or  
3 resolution is considered adopted when it is signed by the presiding  
4 officer. If required, an adopted ordinance, order, or resolution must be  
5 promulgated or published according to statute before it takes effect.  
6 (b) An ordinance prescribing a penalty or forfeiture for a violation  
7 must, before it takes effect, be published once each week for two (2)  
8 consecutive weeks, according to IC 5-3-1. However, if such an  
9 ordinance is adopted by the legislative body of a county subject to  
10 IC 36-2-3.5 and there is an urgent necessity requiring its immediate  
11 effectiveness, it need not be published if:  
12 (1) the county executive proclaims the urgent necessity; and  
13 (2) copies of the ordinance are posted in three (3) public places in  
14 each of the districts of the county before it takes effect.  
15 (c) In addition to the other requirements of this section, an  
16 ordinance or resolution passed by the legislative body of a county  
17 subject to IC 36-2-3.5 is considered adopted only if it is:



- (1) approved by signature of a majority of the county executive;
- (2) neither approved nor vetoed by a majority of the executive, within ten (10) days after passage by the legislative body; or
- (3) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

- (1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or
- (2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

**(f) An ordinance increasing a building permit fee or an impact fee on new development must:**

- (1) before it is to take effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1; and**
- (2) delay the implementation of the fee increase for a period ending ninety (90) days after the ordinance is approved by the executive under subsection (d).**

SECTION 2. IC 36-4-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is:

- (1) signed by the presiding officer; and
- (2) either approved by the city executive or passed over his veto by the legislative body, under section 16 of this chapter.

If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under subsection (c); or
- (2) there is an urgent necessity requiring its immediate effectiveness, the city executive proclaims the urgent necessity,

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and copies of the ordinance are posted in three (3) public places in each of the districts from which members are elected to the legislative body.

(c) If a city publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

- (1) of the ordinances in the book or pamphlet;
- (2) of the date of adoption of the ordinances; and
- (3) that the ordinances have been properly signed, attested, recorded, and approved.

(d) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

**(e) An ordinance increasing a building permit fee or an impact fee on new development must:**

- (1) before it is to take effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1; and**
- (2) delay the implementation of fee the increase for a period ending ninety (90) days after the ordinance is approved by the executive under subsection (a).**

SECTION 3. IC 36-5-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is signed by the executive. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under IC 36-1-5; or
- (2) it declares an emergency requiring its immediate effectiveness and is posted in:
  - (A) one (1) public place in each district in the town; or
  - (B) a number of public places in the town equal to the number of town legislative body members, if the town has abolished legislative body districts under section 4.1 of this chapter.

(c) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

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**(d) An ordinance increasing a building permit fee or an impact fee on new development must:**

- (1) before it is to take effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1; and**
- (2) delay the implementation of the fee increase for a period ending ninety (90) days after the ordinance is approved by the executive under subsection (a).**

SECTION 4. IC 36-7-4-1311 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1311. (a) The legislative body of a unit may adopt an ordinance imposing an impact fee on new development in the geographic area over which the unit exercises planning and zoning jurisdiction. The ordinance must aggregate the portions of the impact fee attributable to the infrastructure types covered by the ordinance so that a single and unified impact fee is imposed on each new development.

(b) If the legislative body of a unit has planning and zoning jurisdiction over the entire geographic area covered by the impact fee ordinance, an ordinance adopted under this section shall be adopted in the same manner that zoning ordinances are adopted under the 600 SERIES of this chapter.

(c) If the legislative body of a unit does not have planning and zoning jurisdiction over the entire geographic area covered by the impact fee ordinance but does have jurisdiction over one (1) or more infrastructure types in the area, the legislative body shall establish the portion of the impact fee schedule or formula for the infrastructure types over which the legislative body has jurisdiction. The legislative body of the unit having planning and zoning jurisdiction shall adopt an impact fee ordinance containing that portion of the impact fee schedule or formula if:

- (1) a public hearing has been held before the legislative body having planning and zoning jurisdiction; and
- (2) each plan commission that has planning jurisdiction over any part of the geographic area in which the impact fee is to be imposed has approved the proposed impact fee ordinance by resolution.

(d) An ordinance adopted under this section is the exclusive means for a unit to impose an impact fee. An impact fee imposed on new development to pay for infrastructure may not be collected after January 1, 1992, unless the impact fee is imposed under an impact fee ordinance adopted under this chapter.

(e) Notwithstanding any other provision of this chapter, the following charges are not impact fees and may continue to be imposed

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1 by units:

2 (1) Fees, charges, or assessments imposed for infrastructure  
3 services under statutes in existence on January 1, 1991, if:

4 (A) the fee, charge, or assessment is imposed upon all users  
5 whether they are new users or users requiring additional  
6 capacity or services;

7 (B) the fee, charge, or assessment is not used to fund  
8 construction of new infrastructure unless the new  
9 infrastructure is of the same type for which the fee, charge, or  
10 assessment is imposed and will serve the payer; and

11 (C) the fee, charge, or assessment constitutes a reasonable  
12 charge for the services provided in accordance with  
13 IC 36-1-3-8(6) or other governing statutes requiring that any  
14 fees, charges, or assessments bear a reasonable relationship to  
15 the infrastructure provided.

16 (2) Fees, charges, and assessments agreed upon under a  
17 contractual agreement entered into before April 1, 1991, or fees,  
18 charges, and assessments agreed upon under a contractual  
19 agreement, if the fees, charges, and assessments are treated as  
20 impact deductions under section 1321(d) of this chapter if an  
21 impact fee ordinance is in effect.

22 **(f) An ordinance increasing an impact fee on new development**  
23 **must:**

24 **(1) before it is to take effect, be published once each week for**  
25 **two (2) consecutive weeks, according to IC 5-3-1; and**

26 **(2) delay the implementation of the fee increase for a period**  
27 **ending ninety (90) days after the adoption of the ordinance by**  
28 **the legislative body under subsection (a).**

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